

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

IN RE:)
)
ATWOOD MEAT SERVICE) Bankruptcy Case No. 03-90729
INCORPORATED,)
)
Debtor.)

OPINION

This matter having come before the Court on a Motion to Reopen Case filed by First State Bank of Atwood and Objection to Motion to Reopen Case filed by Tuscola National Bank; the Court, having heard arguments of counsel and being otherwise fully advised in the premises, makes the following findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure.

The instant Motion to Reopen Case is filed pursuant to 11 U.S.C. § 350(b), which states:

(b) A case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause.

Rule 5010 of the Federal Rules of Bankruptcy Procedure states that:

A case may be reopened on motion of the debtor or other party in interest pursuant to § 350(b) of the Code. . .

Creditor, Tuscola National Bank, objects to the Motion to Reopen Case filed by the First State Bank of Atwood on the basis that First State Bank of Atwood is not a party in interest, and that, even if it were, no sufficient cause has been shown for reopening the case pursuant to 11 U.S.C. § 350(b). In examining the record of Debtor's bankruptcy proceeding and other facts before the Court, it is clear that the Movant, First State Bank of Atwood, is not a creditor of the Debtor. First State Bank of Atwood is not scheduled in the Debtor's bankruptcy petition as a creditor, and First State Bank of Atwood did not file a proof of claim in this case. As such, the Court can find no reason that First State Bank of Atwood would

derive any benefit from Debtor's bankruptcy estate, even if assets were to be found. The facts as presented cannot be strained far enough for the Court to conclude that the First State Bank of Atwood is a party in interest that would have standing to request reopening of the Debtor's bankruptcy case. Rule 5010 F.R.B.P.

In addition to concluding that Movant, First State Bank of Atwood, is not a party in interest qualified to file a motion to reopen, the Court must conclude that there has not been sufficient cause shown under § 350(b) of the Bankruptcy Code to justify a reopening. The facts before the Court reveal that there is, at best, a very remote possibility that assets could be recovered from Tuscola National Bank to be included in the Debtor's bankruptcy estate. The Trustee in Bankruptcy, having already examined this issue, has filed a report of no assets. Movant, First State Bank of Atwood, is not acting, nor is it authorized to act, on behalf of the Trustee. As such, the Court must find that no cause has been shown to reopen the Debtor's bankruptcy case.

ENTERED: January 30, 2004.

GERALD D. FINES
Chief United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

| | | |
|---------------------|---|------------------------------|
| IN RE: |) | |
| |) | |
| ATWOOD MEAT SERVICE |) | Bankruptcy Case No. 03-90729 |
| INCORPORATED, |) | |
| |) | |
| Debtor. |) | |

ORDER

For the reasons set forth in an Opinion entered on the 30th day of January 2004;
IT IS HEREBY ORDERED that the Motion to Reopen Case filed by First State Bank
of Atwood on January 9, 2004, is DENIED.

ENTERED: January 30, 2004.

GERALD D. FINES
Chief United States Bankruptcy Judge

COPY OF OPINION AND ORDER SENT TO:

Jason M. Crowder
Attorney at Law
P.O. Box 889
Mattoon, IL 61938

Leslie Allen Bayles
Attorney at Law
222 N. LaSalle Street, Suite 2600
Chicago, IL 60601-1003

Timothy O. Smith
Attorney at Law
Two East Main, Suite 200G
Danville, IL 61832

Jeff Richardson
Attorney at Law
P.O. Box 1640
Decatur, IL 62525

James R. Geekie
Trustee
P.O. Box 65
Paris, IL 61944

U. S. Trustee
Becker Building, Room 1100
401 Main Street
Peoria, IL 61602

DATED: January 30, 2004.

Deputy Clerk